

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

STATE OF GEORGIA,

*Defendant.*

CIVIL ACTION

NO. 1:16-CV-03088-ELR

DEFENDANT’S UNOPPOSED MOTION FOR ORAL ARGUMENT WITH  
INCORPORATED BRIEF IN SUPPORT THEREOF

Defendant State of Georgia (the “State” or “Defendant”), submits this Unopposed Motion for Oral Argument on Defendant’s Motion for Summary Judgment, Doc. No. [429]; Defendant’s Motion to Exclude Testimony of Dr. Amy McCart and Supporting Memorandum of Law, Doc. No. [431]; and Defendant’s Motion to Exclude Testimony of Dr. Robert Putnam and Incorporated Memorandum of Law in Support Thereof, Doc. No. [428] (Defendant’s motions to exclude the testimony of Plaintiff’s experts will be hereinafter referred to as “Defendant’s Daubert Motions”).

The Department of Justice (“DOJ”) has not reviewed this Motion, but it does not oppose the State’s request for oral argument.

## CITATION TO AUTHORITY & ARGUMENT

Under Local Rule 7.1(E), courts will typically decide motions on the written filings of the parties “unless a hearing is ordered by the Court.” Setting an oral hearing is within the discretion of the Court and may be granted upon motion or request for hearing “specify[ing] the particular reasons argument may be helpful to the Court and what issues will be the focus of the proposed argument.” *Instructions for Cases Assigned to the Honorable Eleanor L. Ross* at 8. See also, White v. Sears, Roebuck & Co., No. CIV.A.103CV00002GET, 2006 WL 2617136, at \*1 (N.D. Ga. Sept. 12, 2006) (request for oral argument should explain “why oral argument would be helpful or necessary.”)

This case involves important issues of first impression regarding the application of Title II of the Americans with Disabilities Act to state education policy. This Court’s decisions will ultimately determine the authority of the federal government to enforce the ADA’s anti-discrimination provisions against states with regard to publicly funded educational and behavioral-health services for school-age children. As argued by the State, the breadth of the lawsuit is significant—both in its identity of alleged persons suffering discrimination (virtually anyone with a disability related behavior) and in the proposed remedies (of using federal anti-discrimination laws to determine who educates students, when, and how they

receive education services)—and could create significant consequences for State policymakers and appropriations.

In addition to these complex legal issues, the Court is now confronted with an enormous factual record, as well as disputes between the parties about what the factual record actually says, what is admissible, and whether the facts raise any genuine issue to be tried under Fed. R. Civ. P. 56.1. Under these circumstances, oral argument would be helpful to the Court.

The State also requests oral argument on Defendant’s Daubert Motions. Defendant believes such a hearing on these motions would be of assistance to the Court in navigating this important and complex case. While hearings on Daubert motions are not required by law or the Federal Rules, “they are almost always fruitful uses of the court’s time and resources in complicated cases involving multiple expert witnesses” such as in this case. City of Tuscaloosa v. Hachros Chems., Inc., 158 F.3d 548, 564 n.21 (11<sup>th</sup> Cir. 1998); see also U.S. v. Hansen, 262 F.3d 1217, 1234 (11<sup>th</sup> Cir. 2001). This is particularly true where, as here, so much of the Plaintiff’s claims rest on (what the State contends is inadmissible) expert testimony.

## CONCLUSION

For these reasons, Defendant's request for oral argument on its Motion for Summary Judgment and Defendant's Daubert Motions should be granted. A proposed order is attached to this brief.

Respectfully submitted, this 14<sup>th</sup> day of December, 2023.

Christopher M. Carr 112505  
*Attorney General*  
Bryan Webb 743580  
*Deputy Attorney General*  
Russell D. Willard 760280  
*Sr. Assistant Attorney General*  
Susan R. Haynes 901269  
*Assistant Attorney General*  
Office of the Attorney General  
40 Capitol Square, SW  
Atlanta, Georgia 30334

/s/ Josh Belinfante

Josh Belinfante 047399  
Melanie Johnson 466756  
Edward A. Bedard 926148  
Javier Pico Prats 664717  
Danielle Hernandez 736830  
Anna Edmondson 289667  
ROBBINS ALLOY BELINFANTE  
LITTLEFIELD, LLC  
500 14th St. NW  
Atlanta, GA 30318  
T: (678) 701-9381  
F: (404) 856-3255  
E: jbelinfante@robbinsfirm.com  
mjohnson@robbinsfirm.com  
ebedard@robbinsfirm.com  
dhernandez@robbinsfirm.com  
jpicoprats@robbinsfirm.com  
aedmondson@robbinsfirm.com

Alexa R. Ross 614986  
AlexaRossLaw, LLC  
2657 Danfroth Lane  
Decatur, Georgia 30033  
E: alexaross@icloud.com

*Special Assistant Attorneys General*

*Attorneys for Defendant  
State of Georgia*



**LOCAL RULE 7.1(D) CERTIFICATION**

I certify that this DEFENDANT’S UNOPPOSED MOTION FOR ORAL ARGUMENT WITH INCORPORATED BRIEF IN SUPPORT THEREOF has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1. Specifically, this document has been prepared using 14-pt Times New Roman font and type.

/s/ Josh Belinfante  
Josh Belinfante